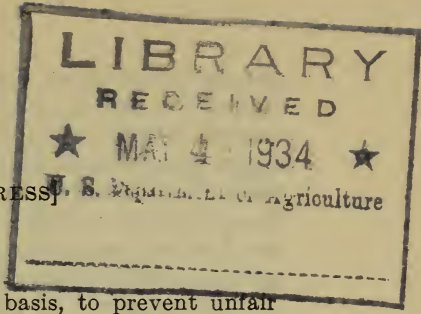


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[PUBLIC—No. 169—73D CONGRESS]

[H.R. 8402]

AN ACT

To place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF POLICY

That in order to relieve the present acute economic emergency in that part of the agricultural industry devoted to cotton production and marketing by diminishing the disparity between prices paid to cotton producers and persons engaged in cotton marketing and prices of other commodities and by restoring purchasing power to such producers and persons so that the restoration of the normal exchange in interstate and foreign commerce of all commodities may be fostered, and to raise revenue to enable the payment of additional benefits to cotton producers under the Agricultural Adjustment Act—

It is hereby declared to be the policy of Congress to promote the orderly marketing of cotton in interstate and foreign commerce; to enable producers of such commodity to stabilize their markets against undue and excessive fluctuations, and to preserve advantageous markets for such commodity, and to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, and to more effectively balance production and consumption of cotton.

PERIOD OF APPLICABILITY

SEC. 2. The provisions of this Act shall be effective only with respect to the crop years 1934–1935, but if the President finds that the economic emergency in cotton production and marketing will continue or is likely to continue to exist so that the application of this Act with respect to the crop year 1935–1936 is imperative in order to carry out the policy declared in section 1, he shall so proclaim, and this Act shall be effective with respect to the crop year 1935–1936. If at any time prior to the end of the crop year 1935–1936, the President finds that the economic emergency in cotton production and marketing has ceased to exist, he shall so proclaim, and no tax under this Act shall be levied with respect to cotton harvested after the effective date of such proclamation.

SEC. 3. (a) When the Secretary of Agriculture finds, for the crop year 1935–1936, if the provisions of this Act are effective for such crop year, that two thirds of the persons who have the legal or equitable right as owner, tenant, share-cropper, or otherwise to

produce cotton on any cotton farm, or part thereof, in the United States for such crop year favor a levy of a tax on the ginning of cotton in excess of an allotment made to meet the probable market requirements and determines that such a tax is required to carry out the policy declared in section 1, the Secretary shall ascertain from an investigation of the available supply of cotton and the probable market requirements the quantity of cotton that should be allotted, in accordance with the policy declared in section 1, for marketing in the channels of interstate and foreign commerce, from production of cotton during the succeeding cotton crop year, exempt from the payment of taxes thereon.

(b) The allotment so ascertained shall be proclaimed by the Secretary of Agriculture at least sixty days prior to the beginning of such succeeding crop year and shall be apportioned by him as herein provided.

(c) For the crop year 1934-1935 ten million bales is hereby fixed as the maximum amount of cotton of the crop harvested in the crop year 1934-1935, that may be marketed exempt from payment of the tax herein levied. Except as provided in section 2, the allotment plan and the tax is hereby declared to be in effect for the crop year 1934-1935.

TAX AND EXEMPTIONS

SEC. 4. (a) There is hereby levied and assessed on the ginning of cotton hereafter harvested during a crop year with respect to which this Act is in effect, a tax at the rate per pound of the lint cotton produced from ginning, of 50 per centum of the average central market price per pound of lint cotton, but in no event less than 5 cents per pound. If the cotton was harvested during a crop year with respect to which the tax is in effect, the tax shall apply even if the ginning occurs after the expiration of such crop year.

(b) The average central market price, per pound of lint cotton, shall be the average price per pound of basis seven-eighths-inch middling spot cotton on the ten spot cotton markets (designated by the Secretary of Agriculture) as determined and proclaimed from time to time by the Secretary of Agriculture. The average central market price determined and proclaimed shall be the base for determining the rate of the tax until a different average central market price for lint cotton is determined and proclaimed by the Secretary of Agriculture.

(c) Every person ginning any cotton subject to tax under this Act (whether as agent of the owner or otherwise) and every other person liable for tax under this Act shall make monthly returns under oath in duplicate and pay the taxes imposed by this Act to the collector for the district in which the ginning is done, or to such other person as such collector may direct. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary of the Treasury, may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid.

(d) When the Secretary of Agriculture does not proclaim an allotment of cotton for a crop year as provided in section 3 of this Act, the tax shall not apply with respect to cotton harvested during such crop year but shall apply to cotton harvested during the next crop year for which, with the approval of the President, the Secretary makes an allotment under such section.

(e) No tax shall be imposed under this Act with respect to—

(1) Cotton harvested by any publicly owned experimental station or agricultural laboratory.

(2) An amount of cotton harvested in any crop year from each farm equal to its allotment.

(3) Cotton harvested prior to the crop year 1934-1935.

(4) Cotton having a staple of one and one half inches in length or longer.

(f) The tax shall not be collected upon the ginning of cotton which is to be stored by the producer thereof either on the farm or at such other place as may be permitted by regulations prescribed by the Secretary of Agriculture and the Secretary of the Treasury. In such cases, the payment of the tax shall be postponed, but shall be paid at the time when bale tags are secured for such cotton. Bale tags may be secured for any of such cotton at any time after ginning (1) upon the payment to such person as the Commissioner may direct, of the amount of tax which would have been payable at the time of ginning, or (2) upon the surrender of certificates of exemption covering an amount of cotton not less than the amount of such cotton. Until bale tags are secured for such cotton, such cotton shall be subject to a lien in favor of the United States for the amount of the tax payable with respect to the ginning of such cotton. The right to postponement of the payment of the tax under this subsection shall be established in accordance with such regulations as the Secretary of Agriculture and the Secretary of the Treasury may prescribe. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe regulations providing for stamping the containers of such cotton so as to indicate the time of ginning and the amount of tax payable with respect thereto.

(g) The right to exemption under paragraph (2) of subsection (e) shall be evidenced by a certificate of exemption issued as herein provided, which certificate of exemption shall be conclusive proof of the right to such exemption.

APPORTIONMENT

SEC. 5. (a) When an allotment is made, in order to prevent unfair competition and unfair trade practices in marketing cotton in the channels of interstate and foreign commerce, the Secretary of Agriculture shall apportion to the several cotton-producing States the number of bales the marketing of which may be exempt from the tax herein levied, which shall be determined by the ratio of the average number of bales produced in each State during the five crop years preceding the passage of this Act to the average number of bales produced in all the States during the same period: *Provided, however,* That no State shall receive an allotment of less than two hundred thousand bales of cotton if in any one year of five years prior to this date the production of the State equalled

two hundred and fifty thousand bales. It is *prima facie* presumed that all cotton and its processed products will move in interstate or foreign commerce.

(b) The amount allotted to each State (less the amounts allotted under section 8) shall be apportioned by the Secretary of Agriculture to the several counties in such State on a basis and ratio, applied to such counties, similar to that set forth in subsection (a), except that, for the purposes of this subsection, there shall be excluded from the calculation of the average production of cotton in any county an amount of cotton produced in such county during any crop year or years during which the Secretary of Agriculture finds that production of cotton in such county was reduced so substantially by unusual drought, storm, flood, insect pests, or other uncontrollable natural cause that the inclusion of the cotton produced in such crop year or years would result in an apportionment to such county based upon an abnormally low production of such county, and in such cases the average production shall be calculated on the basis of the crop years and production of the years remaining of the period set forth in subsection (a).

APPLICATIONS FOR CERTIFICATES

SEC. 6. A producer of cotton desiring to secure a tax-exemption certificate may file an application therefor with the agent designated by the Secretary of Agriculture, accompanied by a statement under oath showing the approximate quantity of cotton produced on the lands presently owned, rented, share-cropped, or controlled by the applicant during a representative period fixed by the Secretary of Agriculture, and also the number of acres of land in said lands in actual cultivation for the three preceding years, and the quantity of cotton, in the best judgment of the applicant, said lands would have produced if all the cultivated land had been planted to cotton. Said application shall state any other facts which may be required by the Secretary of Agriculture. No certificate of exemption shall be issued and no allotment shall be made to any producer unless he agrees to comply with such conditions and limitations on the production of agricultural commodities by him as the Secretary of Agriculture may, from time to time, prescribe to assure the cooperation of such producer in the reduction programs of the Agricultural Adjustment Administration and to prevent expansion on lands leased by the Government of competitive production by such producer of agricultural commodities other than cotton and the allotment of and certificates of exemption issued to any producer shall be subject to revocation on violation by him of such conditions and limitations, and no criminal penalties shall apply to the violation of this provision.

SEC. 7. (a) The amount of cotton allotted to any county pursuant to section 5 (b) shall be apportioned by the Secretary of Agriculture to farms on which cotton has been grown within such county. Such allotments to any farm shall be made upon application therefor and may be made by the Secretary based upon—

(1) A percentage of the average annual cotton production of the farm for a fair representative period; or

(2) By ascertaining the amount of cotton the farm would have produced during a fair representative period if all the cultivated land had been planted to cotton, and then reducing such amount by such percentage (which shall be applied uniformly within the county to all farms to which the allotment is made under this paragraph) as will be sufficient to bring the total of the farm allotments within the county's allotment; or

(3) Upon such basis as the Secretary of Agriculture deems fair and just, and will apply to all farms to which the allotment is made under this paragraph uniformly, within the county, on the basis or classification adopted. The Secretary of Agriculture, in determining the manner of allotment to individual farmers, shall provide that the farmers who have voluntarily reduced their cotton acreage shall not be penalized in favor of those farmers who have not done so.

(b) After the crop year 1934-1935 the apportionment shall not be on the basis set out in paragraph (1) of subsection (a) of this section.

(c) The total allotment to farms in each county under this section shall not exceed the approximate number of bales allotted to that county under section 5 (b).

SEC. 8. Whenever an allotment is made pursuant to section 3, not to exceed 10 per centum of the number of bales allotted to each State shall be deducted from the number of bales allotted to such State, and allotted in such State—

(a) To producers of cotton on farms where for the preceding three years less than one third of the cultivated land on such farms has been planted to cotton;

(b) To producers of cotton on farms not previously used in cotton production;

(c) To producers of cotton on farms where, for the preceding five years, normal cotton production has been reduced by reason of drought, storm, flood, insect pests, or other uncontrollable natural cause; and

(d) To producers of cotton on farms where, for the preceding three years, acreage theretofore planted to cotton has been voluntarily reduced so that the amount of reduction in cotton production on such farms is greater than the amount which the Secretary finds would have been an equitable reduction applicable to such farms in carrying out a reasonable reduction program.

The allotments provided for in this section shall be in addition to the amounts apportioned to the counties under section 5 (b).

EXEMPTION CERTIFICATES

SEC. 9. (a) Exemption certificates shall be issued by the Secretary of Agriculture, upon application therefor, but only upon proof satisfactory to the Secretary that the producer is entitled thereto pursuant to this Act and the regulations thereunder. Any certificate erroneously issued shall be void upon a demand in writing for its return made by the Secretary of Agriculture to the person to whom such certificate was issued.

(b) The right to a certificate of exemption shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe.

(c) The certificate of exemption shall specify the amount of cotton exempt from the tax under section 4 (e) (2).

(d) Any and all certificates of exemption may be transferred or assigned in whole or in part in such manner as the Secretary of Agriculture may prescribe and shall be issued with detachable coupons or in such other form or forms to be prescribed by the Secretary of Agriculture as will facilitate such transfer or assignment. Any person who, in violation of the regulations made by the Secretary of Agriculture, (1) secures certificates of exemption or bale tags from another by sharp practices, or (2) speculates in certificates of exemption or bale tags, and any person securing certificates of exemption or bale tags from another person by fraud or coercion shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than one year's imprisonment, or both.

IDENTIFICATION OF TAX-PAID OR EXEMPT COTTON

SEC. 10. (a) Upon the payment of the tax on any cotton, or the surrender of exemption certificates covering cotton, the collector receiving such payment or certificates shall deliver to the person so paying or surrendering an appropriate number of bale tags which shall be affixed to such cotton.

(b) All cotton imported from a foreign country (including the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) shall be packed and stamped, tagged, or otherwise identified, in addition to any import stamp indicating inspection at the customhouse, before such cotton is withdrawn therefrom.

(c) Every person who, at the time the tax becomes effective in any crop year, holds for sale (or use in the manufacture or production of an article intended for sale) any lint cotton in bales harvested during a year with respect to which the tax was not in effect may, upon application within fifteen days after the tax becomes effective, and any publicly owned experimental station or agricultural laboratory may, upon application at the time of ginning cotton harvested by it, receive an appropriate number of bale tags. Such bale tags shall be promptly affixed to the bales of lint cotton so held.

(d) In the case of any cotton in existence at the beginning of any crop year with respect to which the tax becomes effective and owned, held, or controlled by the United States, or any department or agency thereof, the Commissioner shall supply bale tags therefor free of charge, upon application by the head of the department or agency. Upon application of the Secretary of Agriculture, bale tags shall be issued free of charge for cotton held in the 1933 Cotton Producers' Pool. Bale tags issued under this section shall be securely affixed to such cotton.

DESTRUCTION OF MEANS OF IDENTIFICATION

SEC. 11. Every person emptying or breaking any bale stamped, tagged, or otherwise identified under the provisions of this Act shall, at the time of emptying or breaking such bale, destroy the bale tag.

REGULATIONS BY THE COMMISSIONER

SEC. 12. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying bale tags, and the method of accounting for receipts from the sale of and for the use of such bale tags, and (b) such other regulations as he shall deem necessary for the enforcement of the taxing provisions of this Act.

INFORMATION RETURNS

SEC. 13. (a) All persons, in whatever capacity acting, including producers, ginner, processors of cotton, and common carriers, having information with respect to cotton produced, may be required to make a return in regard thereto, setting forth the amount of cotton delivered, the name and address of the person who delivered said cotton, the amount of lint cotton produced therefrom, and any other and further information which the Commissioner, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration of the tax. Any person required to make such return shall render a true and accurate return to the Commissioner.

(b) Any person willfully failing or refusing to file such a return, or filing a willfully false return, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

GENERAL AND PENAL PROVISIONS

SEC. 14. (a) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 800 of the Revenue Act of 1926, shall, insofar as applicable and not inconsistent with the provisions of this Act, be applicable with respect to taxes imposed by this Act.

(b) Except as may be permitted by regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury, with due regard for the protection of the revenue, no person shall:

(1) Transport, except for storing or warehousing, under the provisions of section 4 (f) beyond the boundaries of the county where produced any lint cotton to which a bale tag issued under this Act is not attached; or (2) sell, purchase, or open any bale of lint cotton to which a bale tag issued under this Act is not attached.

(c) No seed cotton harvested during a crop year with respect to which the tax is in effect shall be exported from the United States or any possession thereof to which this Act applies to any possession of the United States to which this Act does not apply or to any foreign country.

(d) Any person who willfully violates any provision of this Act, or who willfully fails to pay, when due, any tax imposed under this Act, or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any bale tag or certificate of exemption made or used under this Act, or who uses, sells, or has in his possession any such forged, altered, or counterfeited bale tag or certificate of exemption,

or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any bale tag which should have been destroyed as required by this Act, or who makes, uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such bale tag or certificate of exemption, or who reuses any bale tag required to be destroyed by this Act, or who places any cotton in any bale which has been filled and stamped, tagged, or otherwise identified under this Act, without destroying the bale tag previously affixed to such bale, or who affixes any bale tag issued under this Act to any bale of lint cotton on which any tax due is unpaid, or who makes any false statement in any application for bale tags or certificates of exemption under this Act, or who has in his possession any such bale tags or certificates of exemption obtained by him otherwise than as provided in this Act, shall on conviction be punished by a fine not exceeding \$1,000, or by imprisonment for not exceeding 6 months, or both.

(e) Any person who willfully violates any regulation issued by the Secretary of Agriculture or the Secretary of Agriculture and the Secretary of the Treasury under this Act, for the violation of which a special penalty is not provided, shall, on conviction thereof, be punished by a fine not exceeding \$200.

REGULATIONS BY THE SECRETARY OF AGRICULTURE

SEC. 15. (a) The Secretary of Agriculture is authorized to make such regulations as may be necessary to carry out the powers vested in him by the provisions of this Act.

(b) The Secretary of Agriculture may make regulations protecting the interests of share-croppers and tenants in the making of allotments and the issuance of tax-exemption certificates under this Act.

APPROPRIATIONS AUTHORIZED

SEC. 16. (a) There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Out of the sums available to the Secretary of Agriculture under the Agricultural Adjustment Act, such sums as may be necessary to carry out the provisions of this Act are authorized to be made available.

(c) The proceeds derived from the tax are hereby authorized to be appropriated to be made available to the Secretary of Agriculture for the purposes of carrying out the cotton program of the Agricultural Adjustment Administration, and for administrative expenses and refunds of taxes under this Act.

OFFICERS AND EMPLOYEES

SEC. 17. The Secretary of Agriculture is authorized, in order to carry out the provisions of this Act, to appoint, without regard to the provisions of the civil service laws, such officers, agents, and employees, and to utilize such Federal officers and employees, and with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure and, without regard to the Classi-

fication Act of 1923, as amended, to fix the compensation of any officers and employees so appointed, except that rates so fixed shall not exceed the rates of compensation prescribed for comparable duties by such Act, as amended.

PURCHASES AND SERVICES

SEC. 18. The administrative expenses provided for under this Act shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere for law books, periodicals, newspapers, and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law.

COLLECTION OF TAXES

SEC. 19. The taxes provided for by this Act shall be collected by the Commissioner of Internal Revenue under the direction of the Secretary of the Treasury. Taxes collected shall be paid into the Treasury of the United States.

REFUNDS

SEC. 20. (a) No refund of any tax, penalty, or sum of money paid shall be allowed under this Act unless claim therefor is presented within six months after the date of payment of such tax, penalty, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this Act alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury, established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim, unless the Commissioner renders a decision therein within that time, nor after the expiration of two years from the date of the payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after any such disallowance, notify the taxpayer thereof by registered mail.

SEPARABILITY OF PROVISIONS

SEC. 21. If any provision of this Act, or the applicability thereof to any person or circumstance, is held invalid, the remainder of this Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

GEOGRAPHICAL APPLICATION OF ACT

SEC. 22. The provisions of this Act shall be applicable to the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam.

DEFINITIONS

SEC. 23. As used in this Act—

(a) The term "person" means an individual, a partnership, joint-stock company, a corporation, or a firm.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means the collector of internal revenue.

(d) The term "ginning" means the separation of lint cotton from seed cotton.

(e) The term "tax" means the tax upon the ginning of cotton imposed by this Act.

(f) The term "lint cotton" means the fiber taken from seed cotton by ginning.

(g) The term "seed cotton" means the harvested fruit of the cotton plant.

(h) The term "bale tag" means nondetachable bale tag, stamp, or other means of identifying tax-paid or exempt cotton.

(i) The term "crop year" means the period from June 1 of one year to May 31 of the succeeding year, both dates inclusive.

The term "bale", when used in sections 3, 5, 7, and 8 to describe a quantity of cotton, means five hundred pounds of lint cotton.

SEC. 24. The Secretary of Agriculture is authorized to develop new and extended uses for cotton, and for such purpose there is authorized to be made available to the Secretary not to exceed \$500,000 out of the funds available to him under section 12 of the Agricultural Adjustment Act.

Approved, April 21, 1934.

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